IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 14674 of 2004

Between:

P.Sreenivasa Sarma, s/o P.Sita Rama Rao,
r/o Hyderabad.

... PETITIONER

AND

1 Bharat Sanchar Nigam Limited, rep., by the Chairman, New Delhi.
2 The Chief General Manager, Bharat Sanchar Nigam Limited,
Telecom A.P.Circle, Hyderabad-500 001.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a direction or writ more particularly one in the nature of writ of mandamus: a) declaring the action of the respondents in rejecting the request for appointment of the petitioner on compassionate grounds by order No.TA/STA(R)/13-04, dated 15-7-2003 as arbitrary, illegal, unjust and violative of Articles 14 and 16 of the Constitution of India; b) consequently direct the respondents to reconsider the decision communicated by reference No.TA/STA(R)/13-004, dated 15-7-2003 and appoint the petitioner to any suitable post on compassionate grounds.

Counsel for the Petitioner: MR.SIVA

Counsel for the Respondents: SMT.CHINTALAPUDI LAKSHMI KUMARI

The Court at the admission stage made the following:

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Order:

1. The petitioner's father by name Sri Sita Rama Rao worked as a Sub-Divisional Engineer in the first respondent organization. He met with a road accident on 31-3-2002 and succumbed to the injuries on 16-4-2002. Due to the demise of his father the petitioner's family lost the sole bread-winner and the family was put to serious financial difficulties. The petitioner approached the concerned authorities through an application dated 16-10-2002 for compassionate appointment. His mother was sanctioned the family pension of Rs.4,625/- per month in addition to the other terminal benefits like gratuity etc., and the family pension would be reduced to Rs.2,275/- from 17-4-2009. The family pension is inadequate for maintenance. The second respondent rejected his application for compassionate appointment on 15-7-2003 in relaxation of the recruitment rules. He claimed relaxation of age, but it was not relaxed by the second respondent. The petitioner further contends that the respondents have not appreciated his case in the right perspective as such the impugned order dated 15-7-2003 is liable to be set aside. The petitioner therefore approached this Court through this writ petition seeking to declare that the action of the respondents in rejecting his request through the impugned order dated 15-7-2003 as arbitrary, illegal, unjust and violative of Articles 14 and 16 of the Constitution of India.

2. The respondents filed a counter-affidavit resisting the writ petition and the contents of the counter are briefly as follows:

3. By the date of death, the father of the petitioner was 51 years old and the family pension was fixed at Rs.6,568/- per month and the other benefits were given to a tune of Rs.5,72,211/-. Subsequently, the family might have received more family pension and terminal benefits, since the death of the deceased occurred after formation of B.S.N.L., on

1-10-2000. The family of the deceased is having a residential house as well as open plots in Hyderabad City besides other movable and immovable properties. The family members of the deceased are not having any financial distress or lack of means of livelihood. The family of the deceased is well settled and is having sufficient properties in Hyderabad city. The sons of the deceased, including the petitioner, are highly educated and well settled in life. The family is getting rentals from immovable properties, therefore, the High Power Committee rejected the request for appointment of the petitioner on compassionate grounds in relaxation of the recruitment rules. The writ petition is therefore liable to be dismissed as devoid of merits.

4. The second respondent passed the impugned order on 15-7-2003, which reads as follows:

> Please refer to your request for appointment on compassionate grounds in relaxation of recruitment rules for Group-'C' post. The case has been examined by the High Power Committee, which met on 03/06/2003 with regard to terminal benefits, the property, the liability and the size of the family. I am directed to intimate that it has been decided to REJECT the request for appointment in relaxation of recruitment rules in this case.

5. The petitioner while asking for compassionate appointment also requested for relaxation of the age. Relaxation of age is a discretionary one and it is for the concerned authorities to take a decision whether it is a fit case for relaxation of the age of the petition for extending the benefit of compassionate appointment. The High Power Committee of the respondent Company while taking into consideration the terminal benefits received by the family, properties of the family, the income, liabilities and the size of the family decided to reject the request of the petitioner for appointment in relaxation of the recruitment rules.

6. The learned counsel for the petitioner submitted that the respondents are not supposed to take into consideration the terminal benefits and the properties of the family into consideration for the purpose

of extending the benefit of compassionate appointment. Therefore, he requested for a specific direction to the respondents to relax the age and to appoint the petitioner on compassionate grounds. In support of the above contention, the learned counsel relied on a judgment of the Supreme Court in **Balbir Kaur v. Steel Authority of India** wherein the Supreme Court held that the benefit of compassionate appointment cannot be negatived on the ground of introduction of a scheme assuring regular monthly income to the dependants of the deceased employee.

7. This is not a case where the respondents negatived the request of the petitioner only on the ground of receipt of terminal benefits or the receiving of the family pension. The respondents negatived the request of the petitioner on account of his family possessing immovable properties fetching rents and also on account of overage of the petitioner. The relevant rules mandate the consideration of compassionate appointment of one of the dependants of the deceased employee on his death in harness and financial distress of the family without any means of livelihood. The relevant rules give sufficient discretion to the concerned authority to consider whether it is a fit case for compassionate appointment and whether the candidate who made the application is eligible for appointment. After the High Level Committee appointed by the first respondent taking a decision, a communication was sent to the petitioner to the effect that his request for appointment on compassionate grounds cannot be considered. When the respondents took a well-considered decision after doing sufficient exercise regarding the eligibility of the petitioner for compassionate appointment, it is not desirable to interfere with the discretion exercised by them unless the Court finds gross violation of the mandate of the relevant rules. After carefully going through the record, I am convinced that the respondents have not committed any illegality in passing the impugned order and there are no grounds to issue a writ of Mandamus in this case. The writ petition is accordingly dismissed.

(Dr.G. Yethirajulu, J)

02nd November 2004

svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Chairman, Bharat Sanchar Nigam Limited, New Delhi.
2 The Chief General Manager, Bharat Sanchar Nigam Limited,
Telecom A.P.Circle, Hyderabad-500 001.

3 2 CD copies

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